



# Civil Rights Information Update

Bulletin No. 01-2004

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Topic: **Scholarships and Financial Assistance**

**This information is not offered as legal advice and should not be used as a substitute for professional legal advice. Developed by the Civil Rights Compliance Program, Career and Technical Education Team.**

One of the services a district provides to students and their families is that of informing them of opportunities for financial assistance. Schools post scholarship opportunities, help students access application forms for government-sponsored assistance, and select and award scholarships and other aids on behalf of school-based foundations, private agencies, organizations, and individuals.

It is not uncommon, therefore, for a district to have a board policy specifically about scholarships and awards of financial assistance. State and federal nondiscrimination laws dictate that these awards be made without bias and in a nondiscriminatory way. To ensure that this occurs, districts should have a formal structure that outlines the scholarship process from beginning to end in addition to a board policy.

This document has been developed for the dual purpose of providing guidance in the development of a board policy and in creating the formal structure for handling the scholarship process. The information contained within is not conclusive nor does it include all of the provisions defined in federal and state laws. To be certain that the district is in compliance with these laws, the district should consult with professional legal counsel.

## Developing a Board Policy

The board policy for accepting and awarding scholarships and other forms of financial assistance often includes three types of information. These are:

- a statement of nondiscrimination relative to the district's acceptance and administration of gifts, bequests, scholarships, other aids, and benefits;
- information about how students are notified of such opportunities and where these records are maintained; and
- reference to the district's nondiscrimination complaint procedure.

A variety of ways to construct such language are offered below. **It is always appropriate to submit the draft language to the district's policy committee and legal counsel for review prior to adopting it as board policy.**

## Sample Language

### Nondiscrimination Statement/Notice of Nondiscrimination

1. The School District of \_\_\_\_\_ will accept and administer only those gifts, bequests, scholarships and other aids, benefits, or services to pupils from private agencies, organizations or individuals that comply with 34 CFR §100, Implementing Title VI of the Civil Rights Act of 1964, 34 CFR §104, Implementing Section 504 of the Rehabilitation Act of 1973, 34 CFR §106, Implementing Title IX of the Education Amendments of 1972, 28 CFR §35, Implementing Title II of the Americans with Disabilities Act of 1990, and Wis. Stats., §118.13 and PI 9 of the Wisconsin Administrative Code and that do not discriminate against



any student on the basis of sex, race, color, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional, or learning disability. **(This statement cites both state and federal regulations.)**

2. The \_\_\_\_\_ School District shall not discriminate in the acceptance and administration of gifts, bequests, scholarships, and other aids, benefits or services to students from private agencies, organizations or persons on the basis of sex, race, color, national origin, ancestry, creed, religion, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability. **(This statement includes protected classes under both state and federal regulations.)**
3. The School District shall not discriminate in the acceptance and administration of scholarships and other aids on the basis of sex, race, color, national origin, ancestry, religion, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability. **(This statement includes protected classes under both state and federal regulations.)**

#### **Additional Language to Define District Handling of Scholarships**

1. Criteria for awards and scholarships that are administered by the school district shall be consistent with the district's value statement and educational program. A committee, representative of the school community, will select recipients. (Insert nondiscrimination clause here.)
2. The Board of Education encourages the acceptance and disbursement of student scholarships and awards to graduating seniors. Scholarships and awards given by non-school organizations, in which the school is directly responsible for determining the recipient and/or qualifications for receiving such scholarship or award, must be accepted and approved by the Board prior to the disbursement of the scholarship or award. (Insert nondiscrimination clause here.)

#### **Notification of Opportunity and Records Maintenance**

1. Literature concerning available scholarships and awards shall be nondiscriminatory, and posted in areas accessible to all students.
2. Students shall be informed by the administration of any available scholarships. Literature concerning available scholarships shall be posted in the school building. The high school guidance counselor (or other staff) shall maintain records of available scholarships and shall ensure notification is provided for students about scholarship opportunities.

#### **Reference to the District's Complaint Procedure**

1. Complaints of discrimination in acceptance or administration of gifts and bequests to the District are governed by the complaint procedure outlined under Board Policy (insert policy #).
2. Complaints regarding the interpretation or application of this policy shall be referred to (insert name, title, address, phone # and email address of appropriate person) and processed in accordance with the procedures established in the discrimination complaint procedure.
3. Discrimination complaints shall be processed in accordance with established procedures outlined under Board Policy (insert policy #).



## Developing Operational Guidelines

To ensure that the district is adhering to state and federal laws and regulations prohibiting discrimination in access to and award of scholarships on the basis of sex, race, national origin or disability, operational guidelines should be developed and followed. These guidelines should address all aspects of the scholarship/awards process. The following are offered as the structural elements around which guidelines may be developed. Well constructed guidelines will contain each of these elements and will define the who, what, where, when, and how of each.

### A. Selecting the Scholarship Committee

It is up to the district to decide how large the scholarship committee should be, how long a member will serve, and how the committee chair will be selected. No matter how many members there are, these members should be demographically representative of the student body/community. Membership should include persons of both sexes, those of color, those who are disabled, and those from the national origin groups represented in the community. If the committee is selected from a homogeneous pool of school staff, members should be chosen based on their ability to be equitable to all student applicants.

Committee members need to be knowledgeable of the district's nondiscrimination policy, complaint procedure and the district's Title II, Title VI and Title IX, Section 504, and §118.13 coordinators. They must also have an understanding of the ways the acceptance, application and selection process may be discriminatory. Don't assume that the committee will *just know* this—build some staff development into meeting agenda(s) for this purpose.

### B. Accepting and Advertising Opportunities for Financial Assistance

Many private agencies, organizations, and individuals offer students scholarship opportunities, awards, aids, and other services. When these opportunities are presented for advertisement, the materials and information used to notify students will need to be reviewed carefully. They may not contain language or criteria that would lead applicants to believe the assistance is provided on a discriminatory basis.

If, upon review, it is determined that the criteria used for selection and award of aid is discriminatory, the district may ask the agency or organization to modify the criteria so that it is no longer discriminatory. Some districts choose not to provide assistance which means they will not provide staff time, or aid in the solicitation, listing, or award of such opportunities. In these cases the awards are administered privately, rather than by the school district. This position is generally outlined in the school's board policy on scholarships and financial assistance.

Pursuant to the regulations implementing Title IX, schools may administer aid from wills, trusts, bequests, and other legal instruments if the *overall effect* is not discriminatory. A process for determining if the overall effect is not discriminatory is offered in the *Determining the Review and Selection Process* section of this document.

Districts must also comply with 34 CFR §100, Implementing Title VI of the Civil Rights Act of 1964 (discrimination based on race, color, or national origin). Scholarships that are based on race or national origin do not necessarily violate the law. Scholarships that disproportionately benefit minority students are acceptable if they are designed for disadvantaged students, without regard to race or national origin, even if the awards go disproportionately to minority students.

"Disadvantaged students" include students from school districts with high dropout rates, from single-parent families, and from families with few or no college attendees. Awards may also be made on the basis of race or national origin as a remedy to past discrimination.

For more information about award restrictions pursuant to Title VI or Title IX, visit the Office for Civil Rights website at: <http://www.ed.gov/about/offices/list/ocr/index.html>.



### **C. Defining the Application Process**

In addition to reviewing the description of scholarships available, it is also important to review the application form. Are the questions asked and the information required relevant and neutral in their construct? Are any questions extraneous? Do they create opportunity for selection committee members' personal prejudices to influence their choice(s)? Are there any restrictions or requirements in the process that would effectively exclude some students from making application (i.e., the application is only available in print format)? Is assistance available should a student need help reading and interpreting questions, or completing an application? Is such assistance readily accessible and advertised? What measures are in place to ensure that applications submitted for consideration are handled in a confidential way? Putting parameters around issues such as these will define the application process.

### **D. Determining the Review and Selection Process**

If the selection committee is separate from the scholarship committee, the same criteria should be applied when choosing these representatives. They, too, should be cognizant of the district's nondiscrimination policy and the ways in which their actions may be biased or potentially discriminatory. It will also be necessary to establish what constitutes a conflict of interest for a committee member and how such a conflict will be handled.

Before committee members begin selecting awardees, they should discuss the criteria being used and come to common understanding of their relevance and value. Applicants should be selected in the same manner and under the same nondiscriminatory conditions. The easiest way to achieve this is to select and rank students on nondiscriminatory criteria.

If schools are administering sex-restrictive aid, the following committee process will help ensure that the *overall effect* is not discriminatory:

- Select and rank all students applying for financial assistance on nondiscriminatory criteria (e.g., rank by academic achievement or by financial need).
- Allocate all available financial aid, including that from sex-restrictive funds to the eligible students.
- If some ranked students did not receive financial aid after all awards are allocated, determine whether they were left out because of their sex.
- If students are left out because of sex, the school district must find additional money for those students, or not give out the sex-restricted awards to those students privileged by sex.

After the committee has made their selections, but before the final awards are publicized, the committee should do an analysis.

- Count the number of scholarships awarded.
- Total the monetary awards available.
- Check to see if boys and girls are awarded roughly the same number of awards.
- Also check to see if, overall, boys and girls are awarded a comparable amount of money.
- Use this same process to evaluate the applicant pool based on other protected classes (race, color, national origin).
- If problems surface as a result of these analyses, adjustments are probably warranted.

**E. Recognizing Award Recipients**

The school district's responsibility to adhere to the regulations established under state and federal nondiscrimination laws (Titles II, VI, IX, Section 504 and Wis. Stats. §118.13) extend from the start of the scholarship program to its end, and includes their actions in recognizing and making awards. The district cannot make or distribute the award for a scholarship [other aid or service] that is determined to be sex-restricted or in some way violates Title VI. The district can, however, announce that such an award was given, but they can say no more than that without becoming joint awardees.

**F. Maintaining Records**

Regardless of who is responsible for collecting and storing scholarship records, it is critical that they be confidentially maintained and analyzed. Relevant information about those who applied for and those who received awards should be maintained for no less than five years. This information is useful for identifying trends and providing feedback about the district's selection and award process. The data collected will also be used in the analysis and construction of the district's five-year self-evaluation for PI 9.06, Pupil Nondiscrimination.